

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REISSUE APPLICATION
of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

REQUEST TO PROVOKE INTERFERENCE (37 C.F.R. §1.607)

Commissioner for Patents and Trademarks
Washington, DC 20231

The inventors request that an interference be declared with U.S. Patent No. 6,093,407. That interference would be between the present '620 patent, and if necessary, U.S. Patent No. 6,129,782, which is a continuation of the '620 patent. The present '620 inventors have copied at least one claim from the '407 patent as shown in the accompanying Amendment Presenting New Claims. The '407 patent issued on July 25, 2000, which is less than one year ago.

Proposed Counts:

The proposed counts are as follows:

- Count 1: (Claim 1 of U.S. Patent No. 6,093,407) An anti-microbial powder coating composition comprising an anti-microbial agent homogeneously dispersed within the particles of a resin based powder.
- Count II: (Claim 2 of U.S. Patent No. 6,093,407) The composition of count 1, wherein the powder coating composition comprises 90 to 99.9% by

weight of one or more thermosetting and/or thermoplastic compositions based on epoxy, polyester, acrylate, and/or polyurethane resins and 0.1 to 10% by weight of one or more anti-microbial agents.

Count III: (Claim 8 of U.S. Patent No. 6,093,407) The composition of count 1 wherein said anti-microbial agent further comprises solid anti-microbial agents.

Support for Count I in Application as Filed

The first portion of Count I appears as proposed claim 10 in the reissue application, which is copied from claim 1 of '407 patent. Support for all features of count I can be found in ASN 09/201,287, as filed, granted as the '620 patent. Paragraph 2 of page 1 of the application as filed discloses a powder coating composition containing a biocide. Paragraph 4 of page 2 of the application as filed discloses a range of micro-organisms that the biocide is active against. Lines 3-6 of page 2 of the application as filed disclose resin based polymer powders. Paragraph 3 of page 4 of the application as filed discloses the substantially homogeneous distribution of the biocide in the polymer powder.

Count II is proposed claim 11 in the reissue application which is copied from claim 2 of '407 patent.

Support for Count II in Application as Filed

Count II is supported in the specification at lines 11-12 of page 3 of that application. These lines state that useful proportions of biocide are from 0.1 to 10% by weight of the total powder composition. It therefore follows that 90 to 99.9% of the total powder composition will comprise the polymer powder. Claim 10 of the earlier application discloses

the use of thermosetting polymer powders in the composition. Claim 11 as filed discloses the use of thermoplastic polymer powders in the composition.

Support for Count III in Application as Filed

Count III is proposed claim 12 of the reissue application which is copied from claim 8 of '407 patent.

The third claim of count I is supported on page 2, lines 18-23 of the application as filed which states that many suitable biocides may be employed in the invention. The criteria for a suitable biocide is that the biocide can be provided in a suitable powder form and that it can survive the coating process. It follows from this statement that the use of solid anti-microbial agents is supported by this disclosure.

Count IV: (Claim 12 of U.S. Patent No. 6,093,407) A method for preparing an anti-microbial powder coating composition comprising homogeneously mixing an anti-microbial agent into a powder coating pre-mix.

Support for Count IV in Application as Filed

Count IV appears as proposed claim 16 in the reissue application, which was copied from claim 12 of the '407 patent.

Support for Count IV is found in the application as filed. Line 3, page 1 of the application as filed states that it is one object of the invention to provide an anti-bacterial coating composition to be applied to a substrate. This protection is extended to a wider range of micro-organisms in lines 16-18 of page 2 of the application. A method for preparing the anti-microbial powder coating composition by homogeneously mixing an anti-microbial agent into a powder coating pre-mix is disclosed at page 4, lines 9-11 of the application as filed.

6/13, 2001

Respectfully submitted,

By



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of U. S. Patent No. 5,980,620

Issued: November 9, 1999

Examiner: Anthony Green

Group Art Unit: 1755

Title: INHIBITION OF BACTERIAL GROWTH

REISSUE APPLICATION AND REQUEST TO PROVOKE INTERFERENCE

Commissioner for Patents and Trademarks
Washington, DC 20231

Sir:

Pursuant to 37 C.F.R. § 251, the inventors, through the Assignee, hereby request the United States Patent and Trademark Office (PTO) to reissue the original claims of U.S. Patent No. 5,980,620 ("the '620 patent") as well as to allow the newly added claims, in view of an error without deceptive intent, in failing to include the newly presented claims in the original patent application. The '620 patent is wholly or partly invalid by the failure to claim all the inventors had a right to claim.

The inventors also request that an interference be declared with U.S. Patent No. 6,093,407. That interference would be between the present '620 patent, and if necessary, U.S. Patent No. 6,129,782, which is a continuation of the '620 patent. The present '620 inventors have copied at least one claim from the '407 patent as shown in the accompanying Amendment Presenting New Claims. The '407 patent issued on July 25, 2000, which is less than one year ago.

INTRODUCTION

This Reissue Application includes the following documents:

1. A copy of original Patent No. 5,980,620 with the text reproduced in a single column;
2. A Reissue Declaration of each of the inventors;
3. Request for Title Report and Certification;
4. A filing fee authorization letter;
5. Consent of the Assignee;
6. Offer to Surrender Original Patent No. 5,980,620;
7. Amendment Presenting New Claims; and
8. Request To Provoke Interference.

THE ERROR WITHOUT DECEPTIVE INTENT

The inventors recently discovered that they had claimed less than they had a right to claim and that this error occurred without deceptive intent. The inventors so realized upon reviewing subsequently issued U.S. Patent No. 6,093,407 issued to DuPont Powder Coatings. The above inventors are also the inventors of U.S. Patent No. 6,129,782, also owned by the same Assignee of the '620 patent, which was a continuation of the '620 patent.

REQUEST TO PROVOKE INTERFERENCE

It is requested that an interference be provoked with U.S. Patent No. 6,093,407 issued to DuPont Powder Coatings. In the accompanying Amendment Presenting New Claims, newly presented claims 10 and 16 are copied from U.S. Patent No., 6,093,407 as required to provoke the interference. The accompanying document

entitled Request To Provoke Interference provides the proposed counts and other information required by Rule 607.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that all of the original and newly presented claims are patentable over the prior art. The failure to include the newly presented claims occurred without any deceptive intent

Respectfully submitted,

June 13, 2001

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